

REMARKS1. The Amendments / Claim Objections

Claim 47 is canceled to obviate the objection under 37 CFR 1.75(c). Otherwise, the claims are unchanged.

2. Sections 1 and 2 of the Office Action: Rejection of Claims 1-5, 7-8, and 10-11 under 35 USC §112(1) and (2)

These rejections are repeated from the Office Action of August 5, 2004. The Office Action notes at pages 7-8 that the related rebuttal arguments of Sections 2 and 3 of the November 4, 2004 Response have been considered, but are not found persuasive because:

The examiner does not agree with the argument. Even though the specification fully discloses the invention, the claims do not. As stated by MPEP 2174, "If the specification discloses that a particular feature or element is critical or essential to the practice of the invention, failure to recite or include that particular feature or element in the claims may provide a basis for a rejection based on the ground that those claims are not supported by an enabling disclosure." Therefore, the 112 rejections are maintained.

However, the specification nowhere sets forth any feature or element "critical or essential to the practice of the invention" recited in the rejected claims 1-5, 7-8, and 10-11. Note, for example, page 12 of the application, which states that:

To summarize, preferred versions of the invention include *one or more* of the following features

Adjustable Spacing Between Anodes in Multi-Anode Arrays: Preferred anode arrays made in accordance with the invention do not irreversibly affix the anodes together in a fixed spaced relation, and thus users can respace the anodes for tuning, realignment, and repair/replacement reasons. The ability to remove, replace, and/or respace anodes in an array allows removal of an anode and replacement with an anode of the same or a different type, respacing anodes to tune the array to have desired characteristics, and/or addition of further anodes to the array (and respacing of all anodes for tuning) as desired.

(Emphasis added.) The invention of claims 1-5, 7-8, and 10-11 recites one of the foregoing features listed on page 12: adjustable spacing between anodes. This passage plainly shows that claim 1 (and thus its dependent claims 2-5, 7-8, and 10-11) do not omit any essential element or feature. Thus, since the claims do not omit any essential elements/features, and in view of the rebuttal arguments of Sections 2 and 3 of the November 4, 2004 Response, claims 1-5, 7-8, and

10-11 are submitted to be in full compliance with §112. The claims are fully enabled under §112(1) since one of ordinary skill could surely make and use the claimed invention after reading the specification (and it is noted that the Office Action admits at page 7, next to last line, that "the specification fully discloses the invention"). As for §112(2), one of ordinary skill would surely understand what is encompassed by the claim and what is not. The cases noted in Section 3 of the November 4, 2004 Response plainly state that so long as the scope of the claims is clear, §112(2) does not require the Applicant to recite in its claims every component and subcomponent of a working embodiment of the invention. Kindly withdraw the rejections.

More to the point, if these rejections are maintained on the basis that the claims lack some feature/element which is described as essential in the specification, *kindly point out for the record where the specification states that some element or feature is essential*. Unless and until this is shown, the §112 rejections are improper because they state a conclusion – that the claims lack some feature which is described as essential – but the rejections nowhere state what the allegedly essential feature is, or where the specification states that this feature is essential.¹ *Until we know what the allegedly essential features are, and where the specification is alleged to state that these features are essential, we cannot effectively respond to these rejections.*

We submit that the specification – for example, the passage set forth above – plainly shows that the claims *do not* omit any essential elements, and that the claims are complete and enabled as per Sections 2-3 of the November 4, 2004 Response. Again, if the Examiner feels otherwise, kindly indicate what are the allegedly essential missing features, and where Applicant's specification states that these features are essential.

¹ In order to make a proper rejection under §112, the Examiner must set evidence or reasoning to support the basis for the rejection. See, e.g., *Ex parte Hitzeman*, 9 USPQ2d 1821, 1822 (Bd. Pat. App. & Int., 1987) ("[I]t is incumbent on the PTO, whenever a rejection on this basis [§112(1)] is made, to advance acceptable reasoning or evidence which is inconsistent with enablement").

3. Section 3 of the Office Action: Rejection of Claims 1, 3-7, 10, 12, 24, 26, 28, 39-44, and 46-47 under USC §103(a) view of *Friedman et al.* (Multilayer Anode with Crossed Serpentine Delay Lines for High Spatial Resolution Readout of Microchannel Plate Detectors") and U.S. Patent 3,581,091 to *Meijer*

Kindly withdraw these rejections, which allege that:

Meijer discloses a particle detector having first and second anodes, wherein no structure is interposed between the anodes (*FIG. 2, element 2 and 5*) so the space between the anode is adaptably adjustable (*column 1, line 15-25 and column 2, line 32-37: The distance between the two anodes depends on the diameter of the anodes 2, 5*)...

(Page 4, Office Action.) Regarding independent claim 1 (and its dependent claims 3 and 6), claim 24 (and its dependent claim 26), and independent claim 39 (and its dependent claims 42, 43, and 47), these claims are understood to be rejected as obvious in view of *Friedman* and *Meijer* because:

it would have been obvious for one having ordinary skill in the art at the time the invention was made to modify the detector disclosed by *Friedman et al.* such as no structure is interposed between the anodes so the space between the anodes is adaptably adjustable as disclosed by *Meijer*. The motivation for doing so would have been to obtain a spectrometer which makes more accurate determination possible as taught by *Meijer* (*column 1 lines 53-55*).

(Pages 4-5 of Office Action.) The rejections are wrong in several respects.

First, it appears that *column 1 lines 15-25 and column 2 lines 32-37 of Meijer* are cited for the proposition that *Meijer's* "anodes" 2 and 5 (actually counters) are spaced to be adaptably adjustable.² However, *Meijer* does not state this, and rather *Meijer* plainly states that the counters are spaced by a distance equal to the diameter of the counters (here, 20 mm):

² It may be useful to refer to Section 5 of the November 4, 2004 Response, which explained why the structures of U.S. Patent 3,581,091 to *Meijer* and U.S. Patent 3,529,161 to *Oosthoek* are not in fact delay line anodes.

1

In the known arrangement, a neutron telescope, according to the above described principle, the distance between the scattering foil and the first counter and that between the two counters likewise is approximately equal to the diameter of the counters and a number of tantalum foils are used for limiting the proton beam. Typical values for the diameter of the counters are 1 to 2 cm.

15

20

25

2

Referring now to FIG. 1 in which the settings and the electrode supply wires are not shown, reference numeral 1 denotes a polyethylene foil, thickness 10 microns 2 is a silicon barrier layer counter. The thickness of 2 is 30 microns the diameter 20 mm. On the upper side of the disc, a number of electrode strips 3 of gold are vapor-deposited, thickness 0.3 micron, distance mutually 100 microns. On the lower side strips 4 of aluminum are provided so as to intersect the strips 3 at right angles.

At a distance of 20 mm. below the disc 2, the disc 5, thickness 1.5 mm., is arranged which likewise consists of silicon having at its upper side electrodes 6 of gold and at its lower side electrodes 7 of aluminum. The direction of a neutron beam is denoted by 8.

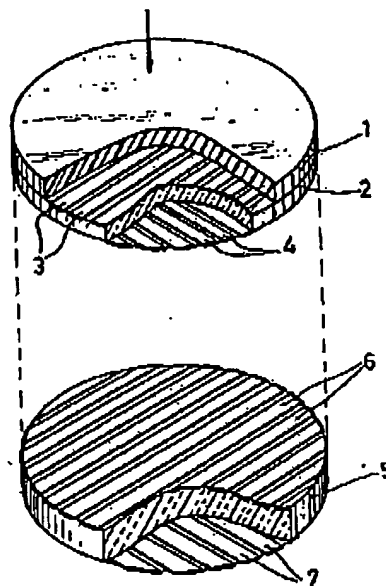


FIG. 1

Meijer requires this spacing between the anodes/counters, as in *Friedman*, since failure to precisely space the anodes/counters will result in impedance mismatch and degraded (or destroyed) signals. Note, for example, the discussion at page 8 line 24-page 9 line 16 of the present application; see also FIG. 4 of *Friedman* (showing required design thicknesses for the dielectric layers separating the anodes, and the thickness error when the design was manufactured).³ Since the *Meijer* counters plainly do not have adjustable diameter – it does not even seem that such a feature could be possible – they plainly do not have adjustable spacing.

³ Note that in FIG. 4, the upper delay line anode is labeled as “upper board,” the lower anode is labeled by “lower board,” and the duroid 6002 layer therebetween maintains them at a fixed distance.

Also, since *Meijer* is being used to modify *Friedman*, it is important to look to both references *in their entireties*, as required by MPEP 2141.02. Here, note that *Friedman* starts with two separate delay line anodes, just as *Meijer* uses two counters (see discussion at page 599 of *Friedman*) – but *Friedman* then bonds/fuses the two anodes together, to the design distance noted in FIG. 4, in order to avoid any variability in spacing. Consider: would one of ordinary skill truly regard it as obvious to modify *Friedman* as allegedly suggested by *Meijer* if *Friedman* first starts with an arrangement similar to *Meijer* (separate anodes/counters), but then attaches the anodes together so that they have a firmly fixed distance? It is plainly contrary to *Friedman*'s purposes to use separate anodes, and it is in no way beneficial or obvious to separate *Friedman*'s anodes to be adjustably respaceable. See MPEP 2143.01 (subsection entitled "The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose").

It is therefore seen that *Meijer* does not in any way teach or suggest adjustable spacing – it teaches spacing the counters apart by a distance equal to their diameters – and such fixed spacing is squarely in line with the other prior art of record, including *Friedman*. Independent claims 1, 24, and 39 are therefore submitted to be allowable.

Regarding dependent claims 4-5 and 40-41, note that in both *Friedman* (see FIG. 4) and *Meijer* (see foregoing passages, noting 30 micron thickness for counter 2 and 1.5 mm thickness for counter 5), the anodes are very different (and they have to be different in order to have coupled impedances). Thus, neither reference offers any disclosure or suggestion of the arrangement recited in claims 4-5 and 40-41.

Regarding claims 10 and 44: As noted in the Response of April 30, 2004, "flex circuit" is a term of art referring to flexural circuit boards (see, e.g., page 14 lines 1-8, page 18 lines 15-17 of the application). *Friedman* does not disclose the use of flex circuits, and rather teaches the use of rigid boards (see page 599) – which are further bonded to a brass plate for even greater rigidity. Consider that use of a flex circuit appears contrary to the prior art since such a circuit, being flexible, would seem to allow easier bending of a portion of an anode so that it would be mis-spaced with respect to the other anode (thus causing the aforementioned impedance mismatch). Thus, neither *Friedman* nor *Meijer* teach or suggest the arrangement recited in claims

10 and 44.

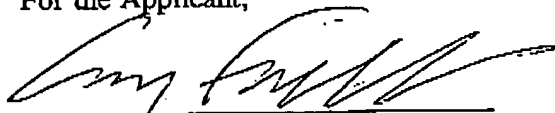
4. Section 4 of the Office Action: Rejection of Claims 2, 25, 27, and 48-49 under USC §103(a) view of *Friedman et al.* (Multilayer Anode with Crossed Serpentine Delay Lines for High Spatial Resolution Readout of Microchannel Plate Detectors”), U.S. Patent 3,581,091 to *Meijer*, and U.S. Patent 3,359,421 to *Perez-Mendez et al.*

Claim 2 is dependent from independent claim 1, claims 25 and 27 are dependent from independent claim 24, and claims 48-49 are dependent from independent claim 39. All are submitted to be allowable for at least the same reasons noted above in Section 3 of this Response.

5. In Closing

If any questions regarding the application arise, please contact the undersigned attorney. Telephone calls related to this application are welcomed and encouraged. The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to deposit account number 18-2055.

For the Applicant,



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,940	06/25/2001	Tye Travis Gribb	66054002	9270

7590 05/16/2005

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EXAMINER
NGUYEN, LAM S

ART UNIT	PAPER NUMBER
2853	

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ASZ

Office Action Summary

Application No.

09/888,940

Applicant(s)

GRIBB ET AL.

Examiner

LAM S. NGUYEN

Art Unit

2853

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-46 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-23 and 30-38 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 24-28, 39-44, 46, and 48-49 is/are rejected.
- 7) ☒ Claim(s) 29, 45 and 50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3-7, 10, 12, 24, 26, 28, 39-44, 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al. (Multilayer Anode with Crossed Serpentine Delay Lines for High Spatial Solution Readout of Microchannel Plate Detectors) (*filed by the applicants*) in view of Meijer (US 3581091).

Friedman et al. discloses a particle detector comprising first and second delay line anodes (*FIG. 2, 4: the upper delay line and lower delay line anodes*), wherein:

- a. the first and second delay line anodes each include an elongated signal line thereon (*FIG. 4, Upper delay line and lower delay line*);
- b. the first delay line anode has a first anode active area upon which particles impinge, the first anode active area containing at least a portion of the first delay line anode's elongated signal line thereon (*FIG. 1*);
- c. the second delay line anode has a second anode active area which receives particles from the first anode active area (*page 599, left column, first paragraph: The electrons travel through the plane of the upper delay line to reach the lower delay line*);
- d. the second anode active area contains a length of the second delay line anode's

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elongated signal line, the length having a configuration and dimensions identical to the portion of the first delay line anode's elongated signal line resting within the first anode active area (Fig. 2) (Referring to claims 6, 39, 42).

Friedman et al. does not disclose wherein the first and second delay line anodes are adjustably mounted in spaced relation to have adaptable spacing therebetween (Referring to claims 1, 26, 39, 47), wherein no structure is interposed between the active areas of the first and second delay line anodes (Referring to claims 3, 24), and wherein at least one of the first and second anodes is defined by metallic foil layers laminated onto opposing sides of a thermoplastic film (Referring to claim 43).

Meijer discloses a particle detector having a first and second anodes, wherein no structure is interposed between the anodes (FIG. 2, element 2 and 5) so the space between the anodes is adaptably adjustable (column 1, line 15-25 and column 2, line 32-37: *The distance between the two anodes 2,5 depends on the diameter of the anodes 2, 5*), wherein the first and second anodes each includes an elongated signal line thereon (FIG. 2, elements, 3-4, 6-7); and wherein at least one of the first and second anodes is defined by metallic foil layers laminated onto opposing sides of a thermoplastic film (column 2, lines 24-32).

Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to modify the detector disclosed by Friedman et al. such as no structure is interposed between the anodes so the space between the anodes is adaptably adjustable as disclosed by Meijer. The motivation for doing so would have been to obtain a spectrometer which makes more accurate determination possible as taught by Meijer (column 1, lines 53-55).

Friedman et al. also discloses the following claimed invention:

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Referring to claims 4-5, 40-41: wherein the first and second delay line anodes are identical and are interchangeable within the particle detector without substantial effect on detector performance (*FIG. 1: Each delay line for X or Y direction so the delay lines are interchangeable*).

Referring to claims 7, 28: wherein the first and second delay line anodes each include a signal layer (*FIG. 4: The upper delay line and lower delay line*) and a ground layer (*FIG. 4: The upper ground plane and lower ground plane*) with a dielectric layer (*FIG. 4: The dielectric layers are between the upper/lower delay line and the upper/lower ground plane*) interposed therebetween, the signal layer having an elongated signal line defined thereon, and wherein the signal line of the first delay line anode is identical to the signal line of the second delay line anode (*FIG. 4: Both are made of Cu*).

Referring to claims 10, 44: wherein at least one of the first and second delay line anodes is formed of flex circuit material (*page 599, left column, second paragraph: Fabrication of the anode begins with standard photolithography of two, double-sided, copper-clad, RT/duroid 6010 ceramic-filled PTFE dielectric boards*).

Referring to claims 12, 46: wherein the first and second delay line anodes include active areas whereupon particles impinge, with the active area of the second delay line anode receiving particles from the active area of the first delay line anode, parallel lengths of signal line, wherein several lengths extend at least partially outside of the anode's active area, and the lengths of signal line in the first delay line anode extend at a non-parallel angle with respect to the lengths of signal line in the second delay line anode (*FIG. 1-2, 4: The upper delay line and the lower delay line are orthogonal*).

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2. Claims 2, 25, 27, 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al. (Multilayer Anode with Crossed Serpentine Delay Lines for High Spatial Solution Readout of Microchannel Plate Detectors) (*filed by the applicants*) in view of Meijer (US 3581091), as applied to claims 1, 24, 39, and further in view of Mendez et al. (US 3359421).

Friedman et al., as modified, discloses the claimed invention as discussed above except wherein the first anode active area and second anode active area of the delay line anodes are space by vacuum or a gas.

Mendez et al. discloses an apparatus for detecting and locating the trajectories of charged particles (*column 1, lines 10-15*) having a plurality of anodes spaced apart (*FIG. 1, elements 14, 16, 17*), wherein the space is filled with a noble gas such as He, Ne (*FIG. 1, element 13*).

Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to modify the particle detector disclosed by Friedman et al., as modified, such as filling a gas into the space between the anodes as disclosed by Mendez et al. The motivation of doing so is to provide improved means for detecting and recording the charged particle tracks as taught by Mendez et al. (*column 2, lines 64-66*).

Allowable Subject Matter

3. Claims 13-23, 30-38 are allowed and Claims 29, 45, and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The reasons for allowance of the claims were indicated in the previous office action.

Response to Arguments

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Applicant's arguments filed 03/09/2005 regarding to the 112(1) and (2) rejections have been fully considered and persuasive.

However, the arguments regarding to the 103 rejection have been found not persuasive.

First of all, the applicants argued that Meijer does not teach or suggest adjustable spacing between the delay line anodes. The examiner responds that, as broadly interpreted, the claims are understood as the anodes adaptably mounted in a space, wherein the length of the space between the anodes is adjustable. As clearly shown in FIG. 1, since there is no fix structure between the anodes, an anode is free to relatively move from the other. In other words, the space between the anodes can be adjusted.

As regarding to arguments relating to claims 4-5 and 40-41, the applicants argued that neither reference offers any disclosure or suggestion of the first and second delay line anodes are identical. In response, the examiner cites that Friedman in FIG. 1 discloses two identical delay lines arranged orthogonal on different planes.

As regarding to arguments relating to claims 10 and 44, the applicants argued that Friedman does not disclose the use of flex circuit material. However, the applicants did not show why Rt/duroid 6010 ceramic-filled PTFE dielectric is not a flex material. In addition, with the thickness disclosed in the cited prior art, the anode boards are believed to be bendable (flexible). Moreover, the bonding of the anodes on the bass plate only means that the whole structure is not bendable, but does not mean that the anode boards, themselves, are not bendable (flexible).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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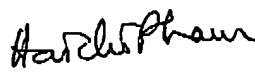
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LAM S NGUYEN** whose telephone number is (571)272-2151. The examiner can normally be reached on 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **STEPHEN D MEIER** can be reached on (571)272-2149. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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April 28, 2005


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05/31/05 15:04 FAX 6088312100		DEWITT ROSS STEVENS		0001	
<p>RESPONSE UNDER 37 C.F.R. §1.116 EXPEDITED PROCEDURE ART UNIT: 2853</p>					
<p>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</p>					
Serial No.:	09/888,940	Group Art Unit:	2853		
Filing Date:	June 25, 2001	Examiner:	Nguyen, Judy		
Applicant(s):	GRIBB et al.	Art. Docket:	66054,002		
Title:	DELAY LINE ANODES				
<p>RESPONSE TO FINAL OFFICE ACTION OF MAY 16, 2005 (37 CFR §1.116)</p>					
<p>Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</p>					
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